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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------|------------------|
| 09/884,207 | 06/19/2001 | Hiroshi Oinoue | 09812.0536-00000 | 3791 |
| 22852 | 7590 | 01/19/2006 | | |
| FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413 | | | EXAMINER GRAHAM, ANDREW R | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2644 | |

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

09/884,207

Applicant(s)

OINOUE ET AL.

Examiner

Andrew Graham

Art Unit

2644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: please see detailed response provided in attached page(s).
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


HUYEN LE
PRIMARY EXAMINER


Andrew Graham
571-272-7517

Response to Arguments

Applicant's arguments filed 12/21/05 have been fully considered but they are not persuasive.

On page 3, lines 3-5, the applicant has stated, "Kunugi describes a sound system whereby the cutoff frequency is not selected to be not lower than 2 kHz and not higher than 6 kHz as presently claimed". This position is rephrased in various manners in lines 8-10 and 16-18 of page 3 of the applicant's response. The examiner respectfully disagrees with this position. As stated previously, a low pass filter, as is well known in the art, comprises a cutoff or corner frequency as a defining part of its frequency characteristic. The "cutoff frequency F_o " in column 9, lines 3-5 is referenced in the context of the "operation of the sound field correcting system of Figure 12" (col. 9, lines 1-2). The reflected sound wave has an amplitude characteristic given by the equation in col. 9, line 10, wherein the cutoff frequency variable F_o is part of the equation. Col. 9, lines 15-18 state that the LPF 3-13 implements this transfer characteristic G and col. 10, lines 22-25 states that the frequency characteristic of the LPF is determined by the frequency characteristic of the reflected wave. Thus, even if the value of the cutoff frequency intrinsic to the low pass filter 3-13 is not independently selected by the low pass filter (but rather, is chosen in response to the characteristic of the reflected wave), the LPF yet implements a matching frequency response that includes such a cutoff frequency of F_o , which in the example given, is 2KHz. Alternately

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stated, regardless of how 2KHz is derived, 2KHz is yet given as the at least exemplary frequency in the system of Kunugi. Please also consider, as context, the particular wording regarding the similar embodiment of Figure 9, noting that the HPF 2-9 also implements a level characteristic G (col. 7, lines 57-62). In this instance, Kunugi clearly teaches that the cutoff frequency of the transfer characteristic G is the cutoff frequency of the HPF filter (col. 8, lines 47-50). Contextually, this same relationship (that the cutoff frequency F_o of the transfer characteristic G is a property of the LPF 3-13, as part of the implementation of G by the LPF 3-13) is understood to be present in the configuration shown in Figure 12, and thus the teachings of Kunugi read on "a cutoff frequency of the low pass filter means is selected to be not lower than 2kHz and not higher than 6kHz". This response is highly similar to that which was presented with the previous office action in regards to the same subject matter. It is further noted that the applicant's response does not provide further details to support the applicant's position quoted above, including information such as another possible interpretation for the involvement of the cutoff frequency in the system of Figure 12 in Kunugi. As such, these responses amount to mere allegations. Without further detail or evidence, these responses cannot be given weight herein, particularly when both the context of the components in Figure 12 as well as prior embodiments of Kunugi provide implications that strongly otherwise contradict the applicant's position, as is detailed above.

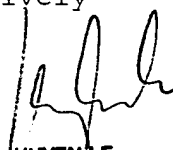
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It is further noted that the 2KHz taught by Kunugi, being not less than 2kHz and not greater than 6 KHz, anticipates the range for such filtering as is presently claimed in Claim 1. Please also refer to MPEP 2131.03, noting that the 2KHz of Kunugi, with definite specificity, overlaps the range in the presently claimed invention.

On page 3, lines 6-8, the applicant has stated, "In fact, Kunugi in Figure 12 teaches a delay 3-1 that has been inserted prior to the low pass filter 3-13 and level adjusting unit 3-2 and inverter 3-3. This differs from the configuration shown in Fig. 1 of the present invention". So far as Figure 1 is represented in the language of Claim 1, it is respectfully noted that Kunugi was not relied upon for teaching this limitation. Rather, Kunugi was considered in particular view of Blanchot, which collectively were considered to at least suggest this relative disposition of elements. Please see particularly page 9 of the Final office action.

On page 3, lines 19-23 and page 4, the applicant has acknowledged the other references applied in the rejection but submits that the same issue(s) addressed above are not taught or suggested by the other applied references and that the dependent claims are believed patentable at least for the same reasons as the independent claim. In light of the above response, the issues regarding the other references have been addressed by the teachings of Kunugi and the rejections of the dependent claims have been reviewed and are respectively maintained.

* 1.13.06


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